IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.15546 of 2007

MONDAY, THE TWENTY THIRD DAY OF JULY TWO THOUSAND AND SEVEN

Between:

Macha Komali Sandhya Kumar,
W/o. Anand Sai Krishna, age 27 years,
Housewife, R/o. Lambadipeta,
D.No.5-6-46/5, Rajagirivari Street,
Vijayawada.

… Petitioner

And

The District Collector, Krishna District,
Machilipatnam, and others.

… Respondents

Order:

This writ petition is filed questioning the notification, dated 29-06-2007, issued under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the L.A.Act'), totally notifying the land to an extent of Ac.74-75 cents situated at Jakkampudi village, Vijayawada Rural Mandal, Krishna District, for public purpose namely for construction of

houses for Urban Public under Jawaharlal Nehru National Urban Revival Missions Scheme.

2. In the impugned notification, the lands totally admeasuring Ac.74-75 cents situated at Jakkampudi village, Vijayawada Rural Mandal, Krishna District are notified. So far as the petitioner in this writ petition is concerned, he is aggrieved by the notification only to an extent of the land admeasuring Ac.5-05 cents covered by Sy.No.248/4 of Pallam. It is the grievance of the petitioner that though under Section 4(1) of the L.A.Act notification, one Devineni Ramanna is shown as Pattadar and Kuragani Kanakamma is shown as possessor, but however, originally Ac.5.05 cents of land belonged to Potnuri Ramulamma and others who sold the same to Korakani Kanakaiah through registered sale deed dated 29-02-1964 and Korakani Kanakaiah by way of a will bequeathed the said properties to his son Korakani Venkateswara Rao to an extent of Ac.1.00 cents and out of the said extent Korakani Venkateswara Rao sold 300.33 Sq. yards to Bandari Nuka Raju who in turn sold the same to the petitioner by registered sale deed dated 25-06-2007, and ever since the date of purchase, the petitioner has been in possession and enjoyment over the same.

3. It is the grievance of the petitioner that in view of the notification under Section 4 (1) of the L.A.Act, though he has leveled up the plot and raised its height by about 6 feet as the said land was low lying and fenced it with an intention to construct his building in the said plot, the respondents are interfering under the guise of survey and threatening him with eviction also.

4. Heard learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

5. A reading of the notification under Section 4(1) of the L.A.Act, it shows that the Revenue Divisional Officer, Vijayawada is appointed as an Officer to conduct the enquiry under Section 5-A of the L.A.Act on behalf of the District Collector. It is clear from the notification that it is not a case where an urgency clause is invoked under Section 17(4) of the L.A.Act, however, an enquiry is being conducted under Section 5-A of the L.A.Act. As it is the case of the petitioner that he has purchased House plot of an extent of 300.33 Sq. yards in a lay out covered by Sy.No.248/4 in an extent of Ac.5-05 cents, which was granted by the competent authority, he can very well raise his objections, if any, before the enquiry, which is being conducted under Section 5-A of the L.A.Act. As much as enquiry is being conducted under Section 5-A of the L.A.Act, unless it is concluded and declaration is issued under Section 6 of the Act, no steps can be taken by the respondents to dispossess the petitioner, who claims to be one of the occupants covered by house in Sy.No.248/4. If petitioner has any objections, she can can very well raise such objections in the enquiry being conducted under Section 5-A of the L.A.Act.

6. In the circumstances, I dispose of the writ petition permitting the petitioner to put forth her objections by way of representation in the enquiry being conducted under Section 5-A of the L.A.Act, with reference to her claim, title and possession in respect of the land covered by Sy.No.248/4 within a period of two weeks from the date of receipt of a copy of this order, and if such representation and objections are filed by the petitioner, the second respondent-Revenue Divisional Officer and Land Acquisition Officer shall conduct enquiry by issuing notice to her by following the provisions contained under Section 5-A of the L.A.Act, and pass appropriate orders. Unless such

objections are considered and order under Section 5-A of the L.A.Act is communicated to the petitioner, no steps shall be taken against the petitioner for her eviction. However, if no objections are filed by the petitioner in the enquiry under Section 5-A of the L.A.Act, or subject to outcome of the enquiry, it is open for the respondents to take further steps in accordance with the Land Acquisition Act and the Rules made there under.

7. The writ petition is accordingly disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY.

July 23, 2007
MRR